

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 89 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 16-18-2-179, AS AMENDED BY P.L.99-2007,
- 4 SECTION 154, IS AMENDED TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2009]: Sec. 179. (a) "Hospital", except as
- 6 provided in subsections (b) through (g), means a hospital that is
- 7 licensed under IC 16-21-2.
- 8 (b) "Hospital", for purposes of IC 16-21, means an institution, a
- 9 place, a building, or an agency that holds out to the general public that
- 10 it is operated for hospital purposes and that it provides care,
- 11 accommodations, facilities, and equipment, in connection with the
- 12 services of a physician, to individuals who may need medical or
- 13 surgical services. The term does not include the following:
- 14 (1) Freestanding health facilities.
- 15 (2) Hospitals or institutions specifically intended to diagnose,
- 16 care, and treat the following:
- 17 (A) Individuals with a mental illness (as defined in
- 18 IC 12-7-2-117.6).
- 19 (B) Individuals with developmental disabilities (as defined in
- 20 IC 12-7-2-61).
- 21 (3) Offices of physicians where patients are not regularly kept as
- 22 bed patients.
- 23 (4) Convalescent homes, boarding homes, or homes for the aged.
- 24 (c) "Hospital", for purposes of IC 16-22-8, has the meaning set forth

1 in IC 16-22-8-5.

2 (d) "Hospital", for purposes of IC 16-23.5, has the meaning set forth  
3 in IC 16-23.5-1-9.

4 (e) "Hospital" or "tuberculosis hospital", for purposes of IC 16-24,  
5 means an institution or a facility for the treatment of individuals with  
6 tuberculosis.

7 ~~(f) "Hospital", for purposes of IC 16-34, means a hospital (as~~  
8 ~~defined in subsection (b)) that:~~

9 ~~(1) is required to be licensed under IC 16-21-2; or~~

10 ~~(2) is operated by an agency of the United States.~~

11 ~~(g)~~ (f) "Hospital", for purposes of IC 16-41-12, has the meaning set  
12 forth in IC 16-41-12-6.

13 SECTION 2. IC 16-21-1-7, AS AMENDED BY P.L.96-2005,  
14 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2009]: Sec. 7. (a) Except as provided in subsection (b), the  
16 council shall propose and the executive board may adopt rules under  
17 IC 4-22-2 necessary to protect the health, safety, rights, and welfare of  
18 patients, including the following:

19 (1) Rules pertaining to the operation and management of  
20 hospitals, ambulatory outpatient surgical centers, ~~abortion clinics,~~  
21 and birthing centers.

22 (2) Rules establishing standards for equipment, facilities, and  
23 staffing required for efficient and quality care of patients.

24 (b) The state department may request the council to propose a new  
25 rule or an amendment to an existing rule necessary to protect the  
26 health, safety, rights, and welfare of patients. If the council does not  
27 propose a rule within ninety (90) days of the department's request, the  
28 department may propose its own rule.

29 (c) The state department shall consider the rules proposed by the  
30 council and may adopt, modify, remand, or reject specific rules or parts  
31 of rules proposed by the council.

32 SECTION 3. IC 16-21-2-1, AS AMENDED BY P.L.96-2005,  
33 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2009]: Sec. 1. (a) Except as provided in subsection (b), this  
35 chapter applies to all hospitals, ambulatory outpatient surgical centers,  
36 ~~abortion clinics,~~ and birthing centers.

37 (b) This chapter does not apply to a hospital operated by the federal  
38 government.

39 (c) This chapter does not affect a statute pertaining to the placement  
40 and adoption of children.

41 SECTION 4. IC 16-21-2-2, AS AMENDED BY P.L.96-2005,  
42 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
43 JULY 1, 2009]: Sec. 2. The state department shall license and regulate:

44 (1) hospitals;

45 (2) ambulatory outpatient surgical centers; **and**

46 (3) birthing centers. ~~and~~

1           ~~(4) abortion clinics.~~

2           SECTION 5. IC 16-21-2-2.5, AS ADDED BY P.L.96-2005,  
3           SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4           JULY 1, 2009]: Sec. 2.5. (a) The state department shall adopt rules  
5           under IC 4-22-2 to do the following concerning birthing centers: ~~and~~  
6           ~~abortion clinics.~~

7           (1) Establish minimum license qualifications.

8           (2) Establish the following requirements:

9           (A) Sanitation standards.

10          (B) Staff qualifications.

11          (C) Necessary emergency equipment.

12          (D) Procedures to provide emergency care.

13          (E) Quality assurance standards.

14          (F) Infection control.

15          (3) Prescribe the operating policies, supervision, and maintenance  
16          of medical records.

17          (4) Establish procedures for the issuance, renewal, denial, and  
18          revocation of licenses under this chapter. The rules adopted under  
19          this subsection must address the following:

20          (A) The form and content of the license.

21          (B) The collection of an annual license fee.

22          (5) Prescribe the procedures and standards for inspections.

23          (b) A person who knowingly or intentionally:

24               (1) operates a birthing center ~~or an abortion clinic~~ that is not  
25               licensed under this chapter; or

26               (2) advertises the operation of a birthing center ~~or an abortion~~  
27               ~~clinic~~ that is not licensed under this chapter;

28          commits a Class A misdemeanor.

29          SECTION 6. IC 16-21-2-10, AS AMENDED BY P.L.96-2005,  
30          SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31          JULY 1, 2009]: Sec. 10. A:

32               (1) person;

33               (2) state, county, or local governmental unit; or

34               (3) division, a department, a board, or an agency of a state,  
35               county, or local governmental unit;

36          must obtain a license from the state health commissioner under  
37          IC 4-21.5-3-5 before establishing, conducting, operating, or  
38          maintaining a hospital, an ambulatory outpatient surgical center, ~~an~~  
39          ~~abortion clinic~~, or a birthing center.

40          SECTION 7. IC 16-21-2-11, AS AMENDED BY P.L.96-2005,  
41          SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42          JULY 1, 2009]: Sec. 11. (a) An applicant must submit an application  
43          for a license on a form prepared by the state department showing that:

44               (1) the applicant is of reputable and responsible character;

45               (2) the applicant is able to comply with the minimum standards  
46               for a hospital, an ambulatory outpatient surgical center, ~~an~~

~~abortion clinic~~, or a birthing center, and with rules adopted under this chapter; and

(3) the applicant has complied with section 15.4 of this chapter.

(b) The application must contain the following additional information:

(1) The name of the applicant.

(2) The type of institution to be operated.

(3) The location of the institution.

(4) The name of the person to be in charge of the institution.

(5) If the applicant is a hospital, the range and types of services to be provided under the general hospital license, including any service that would otherwise require licensure by the state department under the authority of IC 16-19.

(6) Other information the state department requires.

SECTION 8. IC 16-21-2-14, AS AMENDED BY P.L.96-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. A license to operate a hospital, an ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing center:

(1) expires one (1) year after the date of issuance;

(2) is not assignable or transferable;

(3) is issued only for the premises named in the application;

(4) must be posted in a conspicuous place in the facility; and

(5) may be renewed each year upon the payment of a renewal fee at the rate adopted by the council under IC 4-22-2.

SECTION 9. IC 16-21-2-16, AS AMENDED BY P.L.96-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. A hospital, an ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing center that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

SECTION 10. IC 16-21-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. This chapter does not require a hospital to provide a service related to an abortion.

SECTION 11. IC 16-31-6.5-2, AS AMENDED BY P.L.96-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. This chapter does not apply to the following:

(1) A licensed physician.

(2) A hospital, an ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing center.

(3) A person providing health care in a hospital, an ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing center licensed under IC 16-21.

(4) A person or entity certified under IC 16-31-3.

SECTION 12. IC 16-34.3 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**ARTICLE 34.3. ABORTION**

**Chapter 1. Abortion".**

Page 1, line 1, delete "IC 16-34-2-4.5" and insert "**IC 16-34.3-1-1**".

Page 1, line 3, delete "Sec. 4.5. (a)" and insert "**Sec. 1.**".

Page 1, line 3, after "abortion" insert "**. Performing an abortion is a criminal act under IC 35-42-1-6.**".

Page 1, delete lines 4 through 11, begin a new paragraph and insert: "SECTION 13. IC 16-40-5-2, AS ADDED BY P.L.101-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. As used in this chapter, "health care facility" includes the following:

~~(1) An abortion clinic licensed under IC 16-21-2.~~

~~(2) (1)~~ An ambulatory outpatient surgical center licensed under IC 16-21-2.

~~(3) (2)~~ A birthing center licensed under IC 16-21-2.

~~(4) (3)~~ A hospital licensed under IC 16-21-2.

~~(5) (4)~~ An office-based setting under IC 25-22.5-2-7(10) including a facility, clinic, center, office or other setting where procedures are performed that require moderate sedation, deep sedation, general anesthesia, or regional anesthesia.

SECTION 14. IC 31-39-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This chapter applies to all records of the juvenile court except the following:

~~(1)~~ records involving an adult charged with a crime or criminal contempt of court.

~~(2) Records involving a pregnant minor or her physician seeking a waiver of the requirement under IC 35-1-58.5-2.5 (before its repeal) or IC 16-34-2-4 that a physician who performs an abortion on an unemancipated minor first obtain the written consent of the minor's parent or guardian.~~

(b) The legal records subject to this chapter include the following:

(1) Chronological case summaries.

(2) Index entries.

(3) Summonses.

(4) Warrants.

(5) Petitions.

(6) Orders.

(7) Motions.

(8) Decrees.

SECTION 15. IC 31-39-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) This chapter applies to all records of the juvenile court except the following:

~~(1)~~ records involving an adult charged with a crime or criminal

1 contempt of court.

2 (2) Records involving a pregnant minor or her physician seeking  
3 a waiver of the requirement under IC 35-1-58.5-2.5 (before its  
4 repeal) or IC 16-34-2-4 that a physician who performs an abortion  
5 on an unemancipated minor first obtain the written consent of the  
6 minor's parent or guardian.

7 (b) The legal records subject to this chapter include the following:

8 (1) Chronological case summaries.

9 (2) Index summaries.

10 (3) Summonses.

11 (4) Warrants.

12 (5) Petitions.

13 (6) Orders.

14 (7) Motions.

15 (8) Decrees.

16 SECTION 16. IC 35-42-1-6 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A person who  
18 knowingly or intentionally terminates a human pregnancy with an  
19 intention other than to produce a live birth or to remove a dead fetus  
20 commits ~~feticide~~ **performing a criminal abortion**, a ~~Class C~~ **Class B**  
21 **felony. However, the offense is a Class A felony if the person has a**  
22 **prior unrelated conviction under this section.** This section does not  
23 apply to an abortion performed in compliance with:

24 (1) ~~IC 16-34~~; or

25 (2) ~~IC 35-1-58.5 (before its repeal)~~.

26 (b) **A woman upon whom a criminal abortion is performed may**  
27 **not be prosecuted for violating, attempting to violate, or conspiring**  
28 **to violate this section.**

29 SECTION 17. THE FOLLOWING ARE REPEALED [EFFECTIVE  
30 JULY 1, 2009]: IC 16-18-2-1; IC 16-18-2-1.5; IC 16-18-2-69;  
31 IC 16-18-2-223.5; IC 16-18-2-267; IC 16-18-2-267.5;  
32 IC 16-18-2-293.5; IC 16-18-2-355; IC 16-18-2-365; IC 16-34;  
33 IC 35-42-1-0.5.

34 SECTION 18. [EFFECTIVE JULY 1, 2009] **IC 35-42-1-6, as**  
35 **amended by this act, applies only to crimes committed after June**  
36 **30, 2009.**

- 1       SECTION 19. [EFFECTIVE JULY 1, 2009] (a) **The legislative**  
2       **services agency shall prepare legislation for introduction in the**  
3       **2010 regular session of the general assembly to organize and**  
4       **correct statutes affected by this act, if necessary.**  
5       **(b) This SECTION expires December 31, 2010."**  
      (Reference is to ESB 89 as printed April 10, 2009.)

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Representative Fry